



NEW YORK
REGIONAL OFFICE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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October 31, 2024

BY ECF

Hon. Jessica S. Allen
United States Magistrate Judge
District of New Jersey
Martin Luther King Building and U.S. Courthouse
50 Walnut Street, Suite 4015
Newark, NJ 07101

Re: *SEC v. Kenneth A. Welsh*, 21-civ.-19387 (WJM/JSA) (D.N.J.)

Dear Judge Allen:

Plaintiff Securities and Exchange Commission ("SEC") respectfully submits this status letter pursuant to the Court's September 3, 2024 Order (Dkt. No. 19).

As background, on October 27, 2021, the United States Attorney's Office for the District of New Jersey filed a parallel criminal proceeding against Welsh, *United States v. Kenneth A. Welsh*, 23-cr.-00932 (RK) (previously 21-mj.-13385) (D.N.J.) ("the Criminal Case"). The SEC understands that, on October 18, 2024, Welsh returned a signed plea agreement in the Criminal Case. His plea hearing is scheduled for November 20, 2024.

In this SEC action, the Clerk's Office entered a default as to Welsh—the sole defendant in this action—on February 24, 2022. (Dkt. No. 6.) The SEC is trying to negotiate a resolution of this action with Welsh's criminal defense counsel. If the matter cannot be resolved by consent, the SEC and the Court will be better able to assess the appropriate remedies against Welsh, including disgorgement and a civil penalty, following Welsh's plea hearing and sentencing. *See, e.g., SEC v. Palmisano*, 135 F.3d 860, 864 (2d Cir. 1998) ("[W]e modify the judgment to provide that to the extent that [defendant] pays or has paid restitution as ordered in the criminal judgment, such

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payments will offset his disgorgement obligation under the present judgment.”). The SEC respectfully proposes that it submit a further status report within 30 days of a judgment being entered in the Criminal Case or by December 20, 2024, whichever occurs first.

Respectfully submitted,

/s/ Christopher J. Dunnigan
Christopher J. Dunnigan
Senior Trial Counsel

cc (by UPS): Kenneth A. Welsh
(by email): David Holman
(criminal defense counsel for Welsh)